

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RICHARD A. KAMINSKY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:07-CV-1213 (JCH)
)	
STATE OF MISSOURI, STATE BOARD)	
OF REGISTRATION FOR THE HEALING)	
ARTS, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

The matter is before the Court on Defendant Missouri Department of Health & Senior Services, Board of Narcotics and Dangerous Drugs' ("BNDD") Motion to Incorporate by Reference Defendant Missouri Department of Health & Senior Services' Motion to Dismiss (Doc. No. 118), filed October 1, 2007. Plaintiff has failed to file a response.

On May 30, 2007, Plaintiff filed his "Complaint for Immediate Deculatory [sic], Compensatory, Punitive, Administrative, and Post-Conviction Relief" in the Circuit Court for the County of St. Louis, Missouri. (Compl., Doc. No. 1-1). Plaintiff's claims center on the events surrounding the loss of his medical licenses. (*Id.*). Specifically, Plaintiff alleges that Defendants¹ engaged in a conspiracy to falsely arrest him for prescribing himself phentermine, a weight loss drug.

¹Plaintiff named the following as Defendants: State of Missouri, Board of Registration for the Healing Arts; State of Missouri, Missouri Physicians Health Program; BNDD; the Federal Bureau of Investigation ("FBI"); the Drug Enforcement Administration ("DEA"); the St. Louis County Prosecuting Attorney's Office; St. Louis County; Saint Louis University School of Medicine; Forest Park Hospital; Walgreen Co.; Centers for Medicaid and Medicare Services; the St. Louis Post-Dispatch; and State of Missouri, Department of Health and Senior Services. (Compl., Doc. No. 1-1).

(Id. at pp. 11-12). Apparently, a woman named Leann Lisa Ross heads this conspiracy. (Id. at p. 11). Plaintiff alleges that Defendants forced him to involuntarily plead guilty to a crime by using a “mind-controlling drug” on him. (Id. at p. 5). Finally, he alleges that Defendants used this false arrest and conviction as a pretext for suspending his medical licenses. (Id.).

The Complaint only contains two allegations directed at BNDD. First, Plaintiff alleges that he “is being drastically abused, threatened, and coerced” by the BNDD. (Id. at p. 12). He also alleges that he received “numerous harassing phone calls from the BNDD. (Id. at p. 20).

On September 7, 2007, Plaintiff filed his Revised Amended Complaint, which contained new causes of action against Defendants and incorporated all of the allegations listed in the original Complaint. (Doc. No. 91). In his Revised Amended Complaint, Plaintiff alleges that the BNDD violated 42 U.S.C. § 1985 (3), and its companion statute 42 U.S.C. § 1986, by partaking in a conspiracy to deprive him of his First, Fifth, Sixth, and Fourteenth Amendment rights. (Revised Am. Compl., Doc. No. 92 at p. 2). He also alleges a common law civil conspiracy claim.

The FBI and DEA removed the cause of action to this Court on July 3, 2007. (Notice of Removal, Doc. No. 1). The BNDD filed its motion to dismiss on October 1, 2007. (Doc. No. 118). This motion incorporates by reference the arguments made in a motion to dismiss filed by other State of Missouri Defendants² (“State Defendants”) on September 15, 2007. (Doc. No. 99). This prior motion to dismiss asserted that Plaintiff fails to state a claim for civil conspiracy, for violation of 42 U.S.C. § 1985(3), or for violation of 42 U.S.C. § 1986. (Doc. No. 99 ¶ 3-6).

On September 29, 2007, the Court granted the State Defendants’ Motion to Dismiss. (September 29, 2007 Order, Doc. No. 114). In that Order, the Court found that the allegations

²State of Missouri, Board of Registration for the Healing Arts; State of Missouri, Missouri Physicians Health Program; and State of Missouri, Department of Health and Senior Services.

against State Defendants were insufficient to state a civil conspiracy claim because Plaintiff did not allege any facts showing a meeting of the minds or an unlawful objective. (Doc. No. 114 at pp. 4-5). Plaintiff's § 1985(3) claims failed for the same reason. (Id. at pp. 5-6). Finally, his § 1986 claim failed because it was time-barred. Upon consideration, the Court finds that these reasons also warrant the dismissal of Plaintiff's claims against the BNDD. Notably, Plaintiff's conspiracy allegations against the BNDD are even more vague and conclusory than the ones against State Defendants. Moreover, Plaintiff's pleadings contain nothing to suggest that any of his claims fall within the § 1986 limitations period.

Accordingly,

IT IS HEREBY ORDERED that Defendant BNDD's "Motion for Leave to File its Responsive Pleading Out of Time and for Leave to Adopt and Incorporate by Reference the Motion of Defendant State of Missouri Department of Health & Senior Services to Dismiss Plaintiff's Amended Complaint" (Doc. No. 117) is **GRANTED**. Plaintiff's claims against the BNDD are **DISMISSED**.

Dated this 30th day of October, 2007.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE